

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

IBRAHEEM ISLAM,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

Civil Action No. 22-6525 (KSH)

MEMORANDUM & ORDER

Pro se Petitioner Ibraheem Islam, a federal prisoner confined at Cumberland FCI, seeks to file a motion pursuant 28 U.S.C. § 2255. Local Civil Rule 81.2 provides:

Unless prepared by counsel, . . . motions under 28 U.S.C. §2255 shall be in writing (legibly handwritten in ink or typewritten), signed by the petitioner or movant, on forms supplied by the Clerk.

L.Civ.R. 81.2(a). Petitioner did not use the habeas form supplied by the Clerk for section 2255 motions, *i.e.*, AO243 (modified): DNJ-Habeas-004 (Rev. 01-2014), and the form used by Petitioner does not contain the required notice pursuant to *United States v. Miller*, 197 F.3d 644, 652 (3d Cir. 1999). At this time, The Court will provide the *Miller* notice to Petitioner.

Because federal law requires a District Court to dismiss a second or successive § 2255 motion, *see* 28 U.S.C. § 2255(h), 2244(a), a § 2255 movant must include on the face of his or her first § 2255 motion all available federal claims. *See* 28 U.S.C. § 2255 Rule 2(b)(1) (requiring the motion to vacate to “specify all the grounds for relief available to the moving party”). In accordance with *Miller*, you have two options at this time:

- a. Have your pending § 2255 Motion (ECF No. 1) considered as your all-inclusive § 2255 motion, or

- b. Withdraw your pending § 2255 Motion and file an amended § 2255 motion, which includes all available federal claims, provided that the amended all-inclusive § 2255 motion is filed within 45 days of the date of the entry of this Order.

Once you elect an option, the Court will screen the motion or amended motion under the Rules Governing § 2255 Motions. If you do not respond to this Order in writing within 45 days of the date of the entry of this Order, this Court will consider your pending § 2255 Motion as your all-inclusive § 2255 motion.

IT IS, THEREFORE, on this 6th day of December 2022,

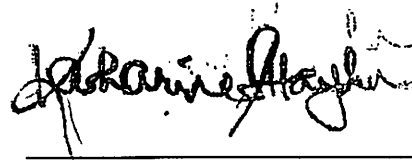
ORDERED that within 45 days of the date of this Order, Petitioner shall elect one of the following options: 1) have your pending § 2255 Motion (ECF No. 1) considered as your all-inclusive § 2255 motion, or 2) submit an amended § 2255 motion, which includes all available federal claims; and it is further

ORDERED that the Clerk of the Court shall forward Petitioner a blank section 2255 form— AO243 (modified): DNJ-Habeas-004 (Rev. 01-2014); and it is further

ORDERED that the Clerk's service of the blank section 2255 form shall not be construed as this Court's finding that the motion is or is not timely, or that Petitioner's claims are or are not procedurally defaulted; and it is further

ORDERED that this matter shall be screened for summary dismissal once Petitioner makes his election or the time to do so expires; and it is further

ORDERED that the Clerk of the Court shall serve a copy of this Memorandum & Order upon Petitioner by regular U.S. mail.

A handwritten signature in black ink, appearing to read "Katharine Hayden", written over a horizontal line.

KATHARINE S. HAYDEN
United States District Judge